

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSH PIRA,

Defendant.

8:15CR270

ORDER

This matter is before the Court on defendant Josh Pira's ("Pira") Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A). That statute authorizes Pira to move the Court to "reduce [his] term of imprisonment" for "extraordinary and compelling reasons" thirty days after asking the warden of the facility where he is incarcerated to file such a motion on his behalf. *See also United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020). Pira states he met that statutory requirement by making such a request on May 22, 2020. The warden subsequently denied his request on June 19, 2020.

Upon initial review of Pira's motion and supporting materials, the Court finds he has potentially raised a colorable claim for a sentence reduction under § 3582(c)(1)(A)(i). Accordingly,

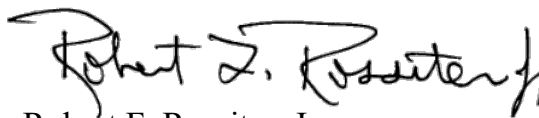
IT IS ORDERED:

1. The U.S. Probation and Pretrial Services Office is directed to investigate Pira's request for sentencing relief and promptly file under seal a report summarizing the results of that investigation.
2. If necessary, the probation office is authorized to disclose Presentence Investigation Reports to Pira's counsel and the United States Attorney for the purpose of evaluating the motion. Pira's counsel shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.

3. The government and Pira's counsel shall each file within ten days of the probation office filing its investigation report a brief addressing Pira's request for sentencing relief and provide any evidence necessary to the Court's disposition of his motion. In particular, the parties should address whether § 3582(c)(1)(A)(i) authorizes the Court to reduce a sentence below a statutory mandatory-minimum sentence. *See, e.g., United States v. Burnett*, No. 8:17CR374, 2020 WL 5038777, at *2 (D. Neb. Aug. 26, 2020) (citing *United States v. Watts*, 553 F.3d 603, 604 (8th Cir. 2009) (per curiam) ("District courts lack the authority to reduce sentences below congressionally-mandated statutory minimums.")). Absent an extension or other request from the parties, the motion shall be deemed fully briefed and submitted as of that date.

Dated this 17th day of November 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge